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Examiner: Jennifer Thissell
Group Art Unit: 3635

REMARKS

Claims 1-69 were in the application as filed. The Examiner has rejected claims 1-9, 24-27, 36 and 61-69 under various grounds of 35 U.S.C. §§ 102, 103 and 112. The rejections are respectfully traversed.

In this paper, Applicants have amended claims 1, 10, 24-25, 37, 52-53, 57, and 61-69 to more particularly and distinctly claim the subject matter that Applicants believe to be their invention and not for the purpose of avoiding prior art as well as to correct dependencies therein.

No new matter has been added by the foregoing amendment, full support therefor being shown in the drawings and specification as filed. New claims 70-87 have been presented herein, but include the spirit of allowable subject matter indicated by the Examiner and are expected to be allowable as well. Applicant has also canceled claims 9 and 36 without prejudice. The claims remaining in the application are believed by the Applicant to be allowable.

Claims 1-8, 10-35, and 37-87, as amended where noted, remain in the application. Further examination and reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

ARGUMENTS

Claim Rejections – 35 USC § 112

Claims 1-8 and 24-27 stand rejected under 35 U.S.C. 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

The Examiner has asserted that claim 1 recites the following language: "second connector having a hinge portion at a first end thereof and a hinge portion at a second end thereof opposite to the first end", however, the Examiner has noted that the "intermediate member" should be the element with the hinge portion at both ends. The Applicant has amended claim 1 to correct this informality. Claim 1 is now in condition for allowance. Claims 2-8, which depend from claim 1, are also allowable for the same reasons.

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The Examiner has also rejected claims 24 and 25 for lacking antecedent basis for the term "the intermediate member". Applicant has amended the dependency of these claims from claim 9 to claim 10 to correct this informality. Claims 24-25 are now in condition for allowance.

Claim Rejections – 35 USC § 102

Claims 1-3, 6, 8-9, 24-25, 36, 61-62 and 65-69 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,094,059 to Ganescu ("Ganescu '059"). This rejection is respectfully traversed.

Regarding claims 1-3, 6 and 8, the Examiner has asserted that Ganescu '059 teaches a hinge plate 12 with first and second connectors 34, 36, an intermediate member 22, the first and second connectors are planar members, the first, second, and intermediate member have a mounting portion, as well as a pivotally mounted hinge portion 18,20. The mounting portion on the first and second connector comprises a nail plate. The Examiner has also asserted that the hinge portions are roll-formed (Figure 8).

Claim 1 as amended calls for a hinge plate for integrally and pivotally connecting a first truss member to a second truss member comprising: a first connector comprising a planar member having at least one mounting portion thereon, the first connector having a hinge portion thereon; a second connector comprising a planar member having at least one mounting portion thereon, the second connector having a hinge portion thereon; an intermediate member comprising a planar member having at least one mounting portion thereon, the intermediate member second connector having a hinge portion at a first end thereof and a hinge portion at a second end thereof opposite to the first end, wherein the hinge portion on the first connector is pivotally mounted to the hinge portion on the first end of the intermediate member and the hinge portion on the second connector is pivotally mounted to the hinge portion on the second end of the intermediate member. A multifunctional pivotal mounting is thereby formed between truss members by fastening the first connector to a first truss member and fastening the second connector to a second truss member.

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Claim 1 clearly sets forth that the intermediate member must have some sort of mounting portion thereon. The mounting portion on the first and second connectors, was correctly identified by the Examiner as a nail plate. The mounting portion in general would be suitable for attachment to a truss member with at least one of a fastener integral to the mounting portion on the intermediate member (e.g., a nail plate) or a separate fastener which passes through the mounting portion on the intermediate member (e.g., one or more mounting apertures). There is no such configuration present in the hinge plate shown in the Ganescu '059 patent. Rather, the intermediate member shown in the Ganescu '059 patent is a blank steel member which no visible "mounting portion" whatsoever. The Examiner's attention is drawn to Figures 6 and 8 of the Ganescu '059 patent in which the corresponding "intermediate member", i.e., plate 22, is shown without a mounting portion for attachment to a truss or other building member. Since this element of claim 1 is missing (among other reasons), claim 1 is in condition for allowance.

Claims 2-3, 6 and 8 depend from claim 1 and are allowable over the cited prior art for at least the same reasons set forth with respect to claim 1.

Regarding claim 9, this claim has been cancelled without prejudice herein and this rejection is therefore moot with respect to claim 9.

Regarding claims 24-25, these claims have been amended to depend from allowable claim 10 and are therefore allowable as depending from allowable subject matter.

Regarding claim 36, this claim has been cancelled without prejudice herein and this rejection is therefore moot with respect to claim 36.

Regarding claims 61-62 and 65-69, these claims have been amended to depend from allowable claim 37 and are therefore allowable as depending from allowable subject matter.

Claim Rejections – 35 USC § 103

Claims 63 and 64 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ganescu ('059). This rejection is respectfully traversed. Aside from the combination being improper, claims 63-64 now depend from allowable claim 37 and are allowable as depending from allowable subject matter.

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Allowable Subject Matter

The Applicant acknowledges with thanks the Examiner's determination that claims 10-23, 28-35, and 37-60 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicant also acknowledges with thanks the Examiner's determination that claims 4-5, 7 and 26-27 would be allowable if rewritten to overcome the rejections set forth in the Office Action under 35 U.S.C. §112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The Applicant believes that the amendments and arguments set forth herein render all claims remaining in the application and newly presented herein as allowable over the prior art of record. Newly-presented claims 70-87 represent the original claims 36-69 written to include the intermediate member in addition to the connector block.

Conclusion

For the reasons discussed above, all claims remaining in this application are in condition for immediate allowance. It is submitted that all of the pending claims in the application are allowable over the prior art of record. Early notification of allowability is requested.

If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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Dated: 29 December 2004

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